

California Code of Regulations
Title 10: Investment
Chapter 5: Insurance Commissioner
Sub-Chapter 9: Insurance Fraud

Article 5

Organized Automobile Insurance Fraud Interdiction Program

§ 2698.70. Definitions.

For the purposes of these regulations:

- (a) "Applicant" means one or more district attorneys.
- (b) "Application" means a document submitted by an applicant for the purpose of requesting funding under this program.
- (c) "Assessment" means an annual fee paid by insurers for each vehicle insured under an insurance policy in the state to support the enhanced interdiction of organized automobile fraud activity.
- (d) "Commissioner" means the Insurance Commissioner of the California Department of Insurance.
- (e) "Department" means the California Department of Insurance.
- (f) "District Attorney" means the prosecuting officer of a California county as provided in Government Code section 26500.
- (g) "Fraud Division" means the California Department of Insurance Fraud Division, also known as the Bureau of Fraudulent Claims.
- (h) "Funding Cycle" means a consecutive 12-month period within a grant period. The funding cycle will commence with the first month of a grant period.
- (i) "Grant Award" means an award of funds to be used by the Grantee pursuant to Insurance Code sections 1874.8 and 1874.81.
- (j) "Grant Period" means a consecutive 36-month period commencing with the month as provided in a grant award.
- (k) "Grantee" means a grant-funded applicant.
- (l) "Insurer" shall have the same meaning as provided under California Insurance Code section 23.
- (m) "Memorandum of Understanding" means a document, including any attachment or addendum, reflecting the agreed upon operational commitments and obligations between a grantee, the Fraud Division and the California Highway Patrol for a coordinated effort aimed at the investigation and prosecution of organized automobile fraud activity including a description of specific program

objectives.

(n) "Organized automobile fraud activity" shall have the same meaning as set forth in Section 1874.8, subdivision (g) of the Insurance Code.

(o) "Program" means those activities conducted by the Fraud Division, the California Highway Patrol, and grantees which support the Organized Automobile Fraud Activity Interdiction Program.

(p) "Vehicle" shall have the same meaning as defined in Section 670 of the Vehicle Code and shall include commercial and non-commercial vehicles.

(q) "In force" means an insurance policy, covering note or binder that has been issued and put into effect on a vehicle in this state.

(r) "Vehicle identification number (VIN)" means a series of Arabic numbers and Roman letters that is assigned to a motor vehicle for identification purposes.

(s) "Transaction Date" means the date, by month, day and year, on which a vehicle is added to the Automobile Assessment File.

Note: Authority cited: Sections 1874.8 and 1874.81, Insurance Code.

Reference: Section 26500, Government Code; and Sections 1874.8(a) and (g) and 1874.81, Insurance Code.

END OF SECTION

§ 2698.71. Annual Fee.

(a) Each insurer shall pay an annual fee of fifty cents (\$.50) for each vehicle it insures under a policy of insurance issued in this state. This annual fifty cent fee shall be paid in increments of twelve and one-half cents (\$.125) for each quarter of a calendar year or any part thereof. The assessment shall be made on a quarterly basis. The fee imposed pursuant to California Insurance Code Section 1874.8 shall be calculated and assessed in the same manner as set forth in title 10 California Code of Regulations section 2698.62.

Note: Authority cited: Sections 1874.8 and 1874.81, Insurance Code.

Reference: Section 26500, Government Code; Sections 1874.8, 1874.81 and 12995, Insurance Code; and Section 670, Vehicle Code.

END OF SECTION

§ 2698.72. Application Procedure and Contents.

(a) The Commissioner shall designate a date for the submission of an application requesting grant funding under this program. Notice of the date for submission shall be mailed to each district attorney

at least 60 days before the date set for submission of an application. Applications received after the date set for submission will not be considered for funding.

(b) An application shall include:

(1) a "strategic plan" as more specifically described in section 2698.74.

(2) a "budget proposal" as more specifically described in section 2698.75.

(3) a list of program contacts for the applicant that shall include the name, position, business address, telephone and fax number for each individual.

(c) In addition to an application, each applicant shall submit as a separate document a memorandum of understanding.

(d) A joint application addressing a multi-county area may be submitted. Joint applications and accompanying documents as provided in subsection (a) shall, in addition to the items specified in subsection (b) of this section, address the use of funds by and between each participating county and designate a lead county for the purpose of receipt and distribution of the grant funding and to serve as the responsible entity for the administration of the grant.

Note: Authority cited: Sections 1874.8 and 1874.81, Insurance Code.

Reference: Sections 1872.8(b)(1), 1874.8(d) and (e) and 1874.81, Insurance Code.

END OF SECTION

§ 2698.73. Funding Procedure.

(a) Funding of a grant shall be in the form of a grant award agreement. Each applicant whose application has been approved for grant funding shall submit an enabling resolution by the county Board of Supervisors approving and authorizing execution of a grant award agreement.

(b) Distribution of grant award funds shall be on a quarterly basis. Funding and dates of distribution shall be contingent upon the adoption of an annual State Budget Act and the collection of assessments. Funds to be distributed for the California Highway Patrol shall be deposited in the motor vehicle account.

(c) Within 60 days after the end of each funding cycle, a grantee shall provide the Department with an estimate of any unexpended and/or unencumbered funds.

(d) A grantee who has undertaken investigations and prosecutions which will carry-over into a subsequent funding cycle may carry-over into the subsequent funding cycle distributed but unused funds not exceeding twenty-five percent (25%) of the total funding cycle, provided that the grantee files a written plan, at the end of the funding cycle, which specifies and justifies to the Commissioner how those funds will be used. In the event that, due to extenuating circumstances, distributed funds exceeding twenty-five percent (25%) of the previous total funding cycle are unused, the Commissioner

may consider and approve requests for carry-over of the unused funds to the extent that the grantee provides justification.

Note: Authority cited: Sections 1874.8 and 1874.81, Insurance Code.

Reference: Sections 1872.8(b)(1), 1874.8 and 1874.81, Insurance Code.

END OF SECTION

§ 2698.74. Strategic Plan.

A strategic plan shall include the following elements:

(a) Table of Contents.

(b) Problem Statement: Each application shall include for the applicable county:

(1) A narrative description of the organized automobile insurance fraud activity in the county, including any supporting data, evidence, or indicators of fraudulent related activity.

(2) A description of the general criminal activity, based upon the most recent California Crime Index Annual Report by the California Attorney General.

(3) Population density, based upon the most recent annual report compiled by the California Department of Finance, Demographic Research Unit.

(4) Automobile insurance claims frequency.

(5) Number of automobile fraud suspected fraudulent claims reported to the Division during a 36-month period immediately preceding the submission of the application.

(6) Evidence of prior and current organized automobile insurance fraud activity.

(c) Qualifications: A description of the applicant's experience in prosecuting automobile insurance fraud which for the purpose of this section shall include economic auto theft cases, for a three-year period preceding the application. The applicant shall include in this section:

(1) The number of automobile insurance fraud investigations initiated and/or coordinated with the Fraud Division, California Highway Patrol and other law enforcement agencies.

(2) The number of automobile insurance fraud related complaints and/or indictments.

(3) The number of automobile insurance fraud related arrests and convictions.

(4) A statement of the amount of charged fraud from the investigations and prosecutions identified in item (1)-(3).

(5) The complexity of the investigations and prosecutions, including the number of claims directly

related to such automobile insurance fraud investigation and prosecution.

(d) Program Strategy: A statement of program strategy shall include:

- (1) Outreach: Descriptions of the manner in which the grantee will develop its caseload referrals, whether directly from the Fraud Division, California Highway Patrol and from other law enforcement agencies and/or insurers.
 - (2) The number and ratio of the applicant's investigators to attorney to be funded by the grant award which reflect the most effective use of those resources under a coordinated investigation and prosecution program.
 - (3) List of personnel, by position title and function, that will be funded in full or in part through a grant award, including descriptions of the qualifications of personnel to be assigned to the program and an organization chart identifying those positions.
- (e) Program Coordination: A description of the manner in which each grantee plans to coordinate its efforts and work with the Fraud Division, the California Highway Patrol and other participating agencies and interested insurers.
- (f) Management Plan: A detailed plan and schedule of the steps the grantee will complete in achieving the objectives of the program and a discussion of how the program staff will be organized and what internal quality control and budget monitoring procedures will be employed. This part shall also include how this program will be integrated with any other anti-fraud program(s) maintained within the grantee's office.
- (g) Staff development: The plan for ongoing training of personnel in the prosecution of organized automobile insurance fraud. Staff development may be addressed through coordination with the Fraud Division, insurers, or other entities.
- (h) Objectives: An outline of the applicant's program goals for each funding cycle of the grant period. Applicants must state how these goals will be achieved in coordination with the Fraud Division, the California Highway Patrol and other law enforcement agencies.

Note: Authority cited: Sections 1874.8 and 1874.81, Insurance Code.

Reference: Sections 1874.8(b) and (c) and 1874.81(a)(3) and (5), Insurance Code.

END OF SECTION

§ 2698.75. Budget Proposal.

(a) A proposed budget shall be presented in line-item detail and cover each funding cycle. The applicant's proposed budget shall include the following estimates:

- (1) Salaries and benefits computed at the county salary and benefit schedule. A current copy of the pertinent schedule shall be submitted with the proposed budget.

(2) Support costs.

(b) Each applicant shall use the following guidelines in preparing its proposed budget:

(1) Itemized costs shall conform to applicant's policy regarding appropriateness of expenses.

(2) Allowable costs are those direct and indirect operating costs incurred in the support of program activities, including program related travel, equipment costs proportional to program-related use of the equipment, facilities cost, expert witness fees and audits.

(3) Non-allowable costs include:

(A) Real property purchases and improvements.

(B) Aircraft or motor vehicles except the purchase of motor vehicles specifically justified to and approved in advance by the Commissioner.

(C) Interest payments.

(D) Food and beverages, except as purchased in connection with program-related travel. Food and beverages costs shall not exceed the applicant's per diem schedule.

(E) Weapons or ammunition unless included as part of a benefit package.

(c) Indirect costs: Indirect costs are those not capable of being assigned to a particular project or program, but necessary to the operation of the organization and the performance of the program. The costs of operating and maintaining facilities, accounting services, and administrative salaries are examples of indirect costs. Indirect costs shall not exceed 10 percent of personnel salaries (excluding benefits and overtime) or 5 percent of total direct program costs (excluding equipment).

(d) Program funds of grantees may only be used to support the grantee's activity in the investigation, prosecution of organized automobile fraud activity.

(e) Budget modifications must be pre-approved in writing by the Commissioner.

Note: Authority cited: Sections 1874.8 and 1874.81, Insurance Code.

Reference: Sections 1872.8(b)(1), 1874.8 and 1874.81(a)(2) and (5), Insurance Code.

END OF SECTION

§ 2698.76. Determination and Criteria for Awarding of Grants.

(a) In determining to award a grant under this program, the Commissioner shall consider the information provided in an application and may consider the recommendations and advice of the Fraud Division and the Commissioner of the Highway Patrol.

(b) Priority shall be given to those grant applications which, in the determination of the Commissioner, have the potential to have the greatest impact on organized automobile insurance fraud activity.

Note: Authority cited: Sections 1874.8 and 1874.81, Insurance Code.

Reference: Sections 1872.8(b)(1), 1874.8(b) and (c) and 1874.81(a), Insurance Code.

END OF SECTION

§ 2698.77. Grant Reporting and Audit.

(a) Each grantee shall submit annual reports to the Commissioner covering the preceding funding cycle. The reports shall consist of:

(1) An expenditure report, which shall include:

(A) All operation costs.

(B) Personnel: salaries and benefits.

(C) Explanation of any material variances from the proposed budget and strategic plan submitted with the grant application.

(2) A financial audit report prepared by an independent, qualified state or local government auditor or independent public accountant licensed by the State of California or the county auditor controller. The audit report shall certify that local expenditures were in conformance with the purposes of the program as specified in Section 1874.8 of the Insurance Code, these regulations, and the application for grant funding as approved by the grant award agreement.

(A) The auditor shall use county policies and procedures as the standard for verifying appropriateness of personnel and support costs.

(B) In the event that the program audit is included as part of an organization-wide audit, revenues and expenditures for the local program must be shown separately.

(3) A program report which shall identify and discuss the following items as they relate to the program:

(A) The number of investigations initiated and/or coordinated with the Fraud Division, California Highway Patrol and other law enforcement agencies.

(B) The number of arrests.

(C) The number of prosecutions.

(D) The number of convictions.

(E) The charged fraud and dollar savings realized as a result of reported prosecutions.

(F) The goals and objectives achieved by the grantees as set forth in the strategic plan including an explanation of any goal not achieved as identified in the strategic plan.

(G) A summary of the other activities directed toward the reduction of organized automobile insurance fraud activity in coordination with all interested insurers and other participating agencies.

(b) The annual reports shall be submitted to the Commissioner no later than two (2) months after the close of the grant funding cycle as specified in the application. A county may request, in writing, a single limited extension to a date certain for submission of the annual reports, in the event an organization-wide audit would delay submission of the required report(s).

(c) There shall be a grant liquidation period of sixty (60) days following the termination of the grant period during which costs incurred but not paid may be paid and deducted from the program budget.

(d) Except as provided in this section, financial audits under this program shall be performed in accordance with the standards set forth in the Government Accounting Standards Revised (July 1999) published by the Comptroller General of the United States, General Accounting Office. The above General Accounting Standards Revised (1999) are incorporated herein by this reference.

(e) The Commissioner shall perform the following audits and reviews:

(1) Fiscal audit of each grant program at least once every three years.

(2) An annual review of the grantee performance under the program

(3) Any additional audits or reviews of a grantee's program as are necessary for the effective and efficient administration of the program.

(f) The grantee shall cooperate with the Commissioner in the performance of the audits and reviews. The grantee shall provide access to all documents related to the program and fiscal operation of the grant program as deemed necessary by the Commissioner. Refusal to cooperate with the Commissioner under this subsection may constitute good cause for redistribution of the grant funding.

Note: Authority cited: Sections 1874.8 and 1874.81, Insurance Code.

Reference: Sections 1872.8(b)(1), 1874.8(b) and (d) and 1874.81, Insurance Code.

END OF SECTION